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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91188736
Party	Plaintiff Anastasia Beverly Hills, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ANASTASIA BEVERLY HILLS, INC.	)	Opposition No. 91,188,736
ANASTASIA SOARE)	
ANASTASIA SKIN CARE, INC.)	
)	
Opposers	)	OPPOSERS' MOTION TO
	)	AMEND TRADEMARK
v.	)	REGISTRATIONS
	)	(Rule 2.133(a))
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	

INTRODUCTION

Opposers Anastasia Beverly Hills, Inc., Anastasia Soare, and Anastasia Skin Care, Inc. (collectively, "Opposers"), hereby move to amend federal trademark Registration Nos. 2821892 for ANASTASIA BEVERLY HILLS and 2798069 for ANASTASIA BEVERLY HILLS & Design (collectively, the "Involved Registrations") to clarify and limit the identification of goods and their associated dates of first use and first use in commerce. Specifically, Opposers wish to delete certain goods which were inadvertently not deleted from the application before the respective registrations issued, and to delete certain other goods which Opposers believe to have been properly listed at the time the Involved Registrations were granted, but for which Opposers are not currently promoting nationwide. Opposers also wish to conform the listing of goods in the two Involved Registrations and clarify inconsistent and/or erroneous dates of first use and which dates are applicable to which classes.

Details of the proposed amendments are attached hereto as Exhibits PA-1 and

PA-2. These amendments will not alter materially the character of the marks or otherwise require republication since they serve only to narrow the goods listed in the Registrations and to clarify dates of first use.

Applicant Anastasia Marie Laboratories, Inc. ("Applicant") has been provided with an earlier draft of the proposed amendments as set forth in Exhibits PA-1 and PA-2, but has to date withheld its consent thereto, thus forcing Opposers to bring this Motion.

The Involved Registrations are already past their fifth year anniversary and will soon be at the respective deadlines for extension or cancellation under section 8 (including the six month grace period) of June 23, 2010 for Reg'n 2798069 and Sept 16, 2010 for Reg'n 2821892, which is prior to any Final Hearing in this Proceeding. Since these registrations are currently the subject of a cancellation proceeding, and since Applicant has withheld its requested consent, they cannot be amended without the Board's leave. On the other hand, the unamended registrations do not accurately list only those goods on which the mark has been used and will continue to be used. Thus, Opposers cannot in good faith file the required section 8 declarations without also amending or disclaiming certain of the goods. Accordingly, Opposers risk serious prejudice if this Motion is not decided prior to that June 2010 deadline.

FACTS

Opposer Anastasia Soare is the President of Opposer Anastasia Beverly Hills, Inc., the owner of record of both involved registrations, and is also the President of a related company, Opposer Anastasia Skin Care, Inc., which owns and operates a skin care and make-up salon in Beverly Hills, California with nation wide reputation and clientele. The attached "Declaration of Anastasia Soare in Support of Opposers' Motions" (Exhibit PB-2¹) sets forth in detail Opposers'

¹ Identical to Exhibit PB-1 in the concurrently filed Motion to Dismiss, but with a different cover

history², the relevant prosecution history of the involved registrations³, how the errors arose, and why she and the other Opposers now seek to have those errors corrected.

Briefly, the Involved Registrations had a convoluted history, were each filed in duplicate⁴, were inadvertently abandoned during prosecution⁵, were prosecuted by three different law firms⁶, and were allowed to proceed to registration without a clear understanding by Opposers of what specific goods were or were not included⁷ and what was meant by "use in commerce"⁸.

During the course of this Opposition, Opposers have reviewed their records, and have concluded that the involved marks were not used in commerce (as that term is defined by the Lanham Act) on certain of the listed goods (nail polish, nail base coat, and nail top coat; body powder; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents)⁹ as of the date of registration, with the result that the registrations "were improperly extended, without any deceptive intent" to

sheet.

² Paragraphs 1, 3-11 of Exhibit PB-2

³ Paragraphs 12-21 and 22-32 of Exhibit PB-2. The File Wrapper and contents for each of the Involved Registrations is believed to be readily available to the Board and already of record in this proceeding.

⁴ Paragraphs 12 and 22 of Exhibit PB-2

⁵ Paragraphs 16, 17 and 26 of Exhibit PB-2

⁶ Paragraphs 12, 16, 17, 22, 26 and 27 of Exhibit PB-2

⁷ Paragraphs 15, 20, 25 and 30 of Exhibit PB-2

⁸ Paragraphs 15, 20, 21 25, and 31 of Exhibit PB-2

⁹ Paragraph 39 of Exhibit PB-2

cover those goods¹⁰.

Opposers now wish to limit the listed goods to exclude not only the originally improperly included goods, but also certain other goods which were properly included, but which are now being marketed on only a limited basis¹¹.

Although not considered a material error, Opposers also wish to conform the listing of goods in the two Involved Registrations and clarify inconsistent and/or erroneous dates of first use and which dates are applicable to which classes¹².

ARGUMENT

Amendments to a federal registrations are expressly permitted pursuant to Section 7 of the Lanham Act, 15 USC 1057(e), which provides that upon “application of the registrant and payment of the prescribed fee, the Director for good cause may permit any registration to be amended or to be disclaimed in part: Provided, That the amendment or disclaimer does not alter materially the character of the mark.” Title 37, Section 2.133(a) of the Code of Federal Regulations, moreover, grants the Board the power to grant Opposers’ Motion. 37 CFR 2.133; *see also* TBMP 514.03 (“The Board, in its discretion, may grant a motion to amend an application or registration which is the subject of an *inter partes* proceeding, even if the other party or parties do not consent thereto.”).

The proposed amendments are permissible under Section 7 because the amendments will not alter materially the character of the marks. Indeed, the amendments make no change to the ANASTASIA BEVERLY HILLS or A ANASTASIA BEVERLY HILLS & Design marks themselves, but merely narrow

¹⁰ Paragraph 40 of Exhibit PB-2

¹¹ Paragraph 41 of Exhibit PB-2

¹² Paragraph 42 of Exhibit PB-2

the listed goods on which the marks are used in commerce and clarifies the dates of first use and first use in commerce. Entry of the amendment will limit rather than expand Opposers' statutory exclusive presumptive rights in the marks and will improve the accuracy of the Register, which is clearly in the public interest. Unless this Motion to Amend is decided prior to the deadlines (including the six month grace period) for filing the required section 8 declarations (June 23, 2010 for Reg'n 2798069 and Sept 16, 2010 for Reg'n 2821892), Opposers will be seriously prejudiced.

CONCLUSION

For the reasons aforesaid, Opposers respectfully request that the Board consider this Motion on a timely basis and issue an Order to the Director of the PTO directing that the Involved Registrations be promptly amended as set forth in Exhibits PA-1 and PA-2; any required fees may be deducted from the undersigned's Deposit Account No. 50-4381.

Dated: January 14, 2010

Respectfully submitted,

/JMM#26200/

John May
Attorney for Opposers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this OPPOSERS' MOTION TO AMEND TRADEMARK REGISTRATIONS and copies of the referenced Exhibits is being served this date upon Applicant Anastasia Marie Laboratories, Inc. by email, by agreement, upon Applicant's counsel, Daphne Sheridan Bass, at daphneb@earthlink.net.

Dated: January 14, 2010

Respectfully submitted,

/JMM#26200/

John May
Attorney for Opposers

**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL
BOARD**

ANASTASIA BEVERLY HILLS, INC.
ANASTASIA SOARE
ANASTASIA SKIN CARE, INC.

Opposers

V.

ANASTASIA MARIE LABORATORIES, INC.

Applicant

Opposition No. 91,188,736

OPPOSERS' MOTION TO AMEND TRADEMARK REGISTRATIONS

(Rule 2.133(a))

EXHIBIT PB-2

(Declaration of Anastasia Soare)

ANASTASIA BEVERLY HILLS, INC.
ANASTASIA SOARE
ANASTASIA SKIN CARE, INC.

V.

Applicant

DECLARATION OF ANASTASIA SOARE IN SUPPORT OF OPPOSERS' MOTIONS

1. I am one of the Opposers in this proceeding. I am also the founder and President of Opposer Anastasia Skin Care, Inc. ("ASC") and a co-founder and President of Opposer Anastasia Beverly Hills, Inc. ("ABH"), formerly known as A.A.S. Cosmetics, Inc. ("AAS"). I will hereafter refer to myself individually in the first person singular ("I", "my", etc.) and to Opposers collectively in the first person plural ("we", "our", etc.).

Background History

3. I grew up in the Romanian seaport of Constanta, where I worked as an apprentice in my parents' tailor shop. I studied architecture, engineering,

drawing, and mathematics during college, and trained professionally as an Esthetician in Romania before moving with my family to California in 1989.

4. At the time I relocated to California, I had only a limited knowledge of English, and spoke with a strong accent. However, my skills as an aesthetician (and in particular those for eyebrow shaping and waxing) were recognized by others in my field, and after obtaining my license in 1990, I rapidly developed my own clientele.

5. I formed Opposer ASC on or about January 29, 1997, and its Beverly Hills skincare salon opened on Bedford Drive in Beverly Hills in July 1997. That salon has always provided a full range of cosmetic and skincare services including application of makeup, makeup lessons, facials, anti-aging treatments for the eyes and face, removal of unwanted hair (waxing) from the face and body, as well as my signature eyebrow shaping services.

6. From its inception, the clientele of our Beverly Hills salon was not limited to local residents, but has always included numerous visitors from out of state and from other countries, many of whom make appointments on a regular basis with me personally for my eyebrow shaping services. Over the years, our clientele has included celebrities such as Oprah, Madonna, Jennifer Lopez, Naomi Campbell, Jada Pinkett Smith, Lara Flynn Boyle, Melissa Etheridge, Penelope Cruz, Sharon Stone, and others.

7. My experience and continued interest in the science of aesthetics have enabled me to achieve a nationwide reputation as an expert in aesthetics, cosmetics and skin care. I have appeared on many nationally broadcast television shows such as Today, Oprah, Fox Business Channel, Extreme Makeover, Access Hollywood, Xtra, Entertainment Tonight. My story has been featured in the pages of top publications such as Wall Street Journal, Vogue, W, Town & Country, Elle, InStyle, Allure, Entertainment Weekly, Newsweek, People, Flaunt and Los Angeles Magazine.

8. At the time we opened our Beverly Hills salon in 1997, it was my intention to develop my own line of cosmetics, skincare, and "lifestyle" products which would be used in the salon and also sold at retail both in the salon and at selected retail outlets.

9. On or about February 24, 1999, with financial support from Mr Arnold Simon, I founded AAS (which later changed its name to ABH), with myself as President and Howard Barnaby of Robin, Blecker & Daley ("RB&D) as trademark counsel. We decided to adopt the distinctive phrase "ANASTASIA BEVERLY HILLS" as our house mark, and I retained Bird Designs to design a new logo.

10. By September 1999, we were actively working with various suppliers (including established makers of high-quality cosmetics and toiletries and associated packaging in New York, Italy, and Japan) to develop new skincare and cosmetics products for national distribution by Opposer ABH, to be labeled with the ANASTASIA BEVERLY HILLS name and logo.

11. At about that same time, I was engaged in planning for a remodel of our salon in which the signage of our salon was to be changed from simply "Anastasia" to "ANASTASIA Beverly Hills" (with the newly adopted logo), so that our existing clients and prospective customers would clearly identify a common source with a nationwide reputation for excellence for both our existing services and our future products.

Prosecution of Registration No. 2821892

12. On or about October 26, 1999, as President of AAS, I signed an intent-to-use trademark application bearing docket number B877-003 for the ANASTASIA BEVERLY HILLS word mark for goods in Classes 3, 4, 5, 8 and 21 (the "ABH Mark "). I understand that the application subsequently was filed in duplicate by RB&D on October 27, 1999 under serial number 75833289 (which I understand is now "DEAD"), and on October 28, 1999 under serial number 75833810 (the "ABH Application").

13. The ABH Application included a Declaration (the "1999 ABH Declaration") which stated that I believed AAS "to be entitled to use such mark in commerce" and that to the best of my knowledge and belief "no other firm, corporation or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as to be likely, when used in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive."

14. The ABH Application listed a large number of "goods" and stated that "Applicant has a bona fide intention to use the mark in commerce in connection with the above-identified goods" and that the "mark will be used on labels and packaging for the goods."

15. The 1999 ABH Declaration did not itself make any explicit reference to any specific goods, and I did not conduct a careful review of the "goods" listed in the body of the application or have a clear understanding of what it means to "use the mark in commerce", other than to note that the listing of "goods" included all the product categories (including cosmetics and grooming tools, skin care products, and fragrance products) that I was planning to market under the brand name "Anastasia Beverly Hills."

16. On or about October 24, 2000 Debra L. Johnson ("DLJ"), whom I had previously retained as counsel for ABH, apparently requested an extension to respond to an April 24, 2000 office action. On February 5, 2001 a notice of abandonment of the ABH Application was apparently mailed to RB&D, based on failure to timely/completely respond to the April 24, 2000 office action.

17. Sometime subsequent to February 5, 2001, I retained Cislo and Thomas ("C&T") as our new trademark counsel. On or about March 29, 2001, C&T filed what I understood to be a complete response to the April 24, 2000 office action, as well as a Petition to Revive the ABH Application which was prepared by C&T and signed by myself on or about March 22, 2001. The Petition to Revive stated

that the failure to "timely/completely respond" by our prior counsel happened "apparently inadvertently," and that "Applicant" had only recently become aware of that abandonment.

18. On or about June 22, 2001, C&T filed an Amendment to Allege Use dated June 19, 2001 (the "2001 ABH Amendment"), and on or about September 9, 2002 a second Amendment to Allege Use dated September 4th, 2002 (the "2002 ABH Amendment"). The 2002 Amendment was subsequently "clarified" by a third Amendment to Allege Use filed on or about April 14, 2003 and dated April 10, 2003 (the "2003 ABH Clarification").

19. The 2001 ABH Amendment was prepared by C&T and I signed the Declaration, dated May 22, 2001 ("2001 ABH Declaration"), that appears on page 7 of the 2001 ABH Amendment. The 2001 ABH Declaration stated my belief that, among other things, ABH was the owner of the ANASTASIA BEVERLY HILLS word mark and that the mark "is now in use in commerce."

20. When signing the 2001 ABH Declaration, I did not realize that the 2001 ABH Amendment would be interpreted to mean that ABH was claiming that it was then using the mark in any particular way on any specific product other than would be apparent from the specific product specimens which I had provided to counsel: eyebrow highlighting pencils, eye liners, cosmetic wax, candles, cosmetics brushes, and tweezers (I now understand that the latter two specimens were not filed with the 2001 ABH Declaration, but were subsequently filed with the 2002 ABH Amendment).

21. It is my understanding that the ABH Application was published for Opposition on December 23, 2003, and issued on March 16, 2004 (the "ABH Registration"). Prior to the issuance of the ABH Registration, I mistakenly believed that any commercial use of the name "Anastasia Beverly Hills" constituted "use in commerce." In particular, I then believed that, as long as ABH sold or used the goods in the Anastasia Beverly Hills salon, which was clearly

identified with the ABH Mark, then ABH had used the ABH Mark “in commerce on or in connection with the goods.”

Prosecution of Registration No. 2798069

22. On or about October 26, 1999, as President of AAS, I signed an intent-to-use application bearing docket number B877-002 for the A ANASTASIA BEVERLY HILLS (stylized) and Design mark for goods in Classes 3, 4, 5, 8 and 21 (the "AABH Mark"), which I understand was subsequently filed in duplicate by RB&D on October 27, 1999 under serial number 78833290 (the "AABH Application"), and on October 28, 1999 under serial number 75833809 (which I understand is now "DEAD").

23. The AABH Application included a Declaration (the "1999 AABH Declaration") which stated that I believed AAS "to be entitled to use such mark in commerce" and that to the best of my knowledge and belief "no other firm, corporation or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as to be likely, when used in connection with the goods of such other person, to cause confusion. or to cause mistake, or to deceive."

24. The AABH Application listed a large number of "goods" and stated that "Applicant has a bona fide intention to use the mark in commerce in connection with the above-identified goods" and that the "mark will be used on labels and packaging for the goods."

25. The 1999 AABH Declaration did not itself make any explicit reference to any specific goods, and I did not conduct a careful review of the "goods" listed in the body of the AABH Application or have a clear understanding of what it meant to "use the mark in commerce," other than to note that the listing of "goods" included all the product categories (including cosmetics and grooming tools, skin care products, and fragrance products) that I was planning to market under the brand name "Anastasia Beverly Hills" and our newly adopted logo.

26. On or about October 24, 2000, DLJ apparently requested an extension to respond to an outstanding office action dated April 24, 2000. On or about February 5, 2001, a notice of abandonment of the AABH Application was apparently mailed to RB&D, based on failure to timely/completely respond to the April 24, 2000 office action.

27. On May 20, 2002, C&T apparently filed in the AABH Application a Petition to Revive the AABH Application which I had previously signed on or about October 23, 2001, together with an Amendment dated May 15, 2002.

28. The AABH Application was Published on March 11, 2003 and a Notice of Allowance was issued on June 3, 2003.

29. On or about August 5, 2003, C&T filed a Statement of Use of the A ANASTASIA BEVERLY HILLS & Design mark, which included a undated Declaration signed by me (the "2003 AABH Declaration") which stated that, among other things, ABH was the owner of the A ANASTASIA BEVERLY HILLS & Design mark and that ABH "has used the mark in commerce on or in connection with the goods specified in the Notice of Allowance."

30. Prior to signing the 2003 AABH Declaration, I did not review the Notice of Allowance and I did not realize that the Notice of Allowance covered goods other than what would be apparent from the product specimens which we had previously provided counsel, namely eyebrow highlighting pencils, eye liners, cosmetic wax, candles, cosmetics brushes, tweezers, exfoliating shower cream, body milk, exfoliating face scrub, hand cream, loose powder, brow powder, eye shadow, body bar soap, and mascara. In particular, I did not realize that the Notice of Allowance specifically included nail polish, nail base coat, and nail top coat; facial toners, facial astringents, facial masques, body toners, body astringents; fragranced bar body toners, and astringents.

31. Furthermore, I did not know that the Statement of Use would be interpreted to mean that ABH was claiming that it was using the mark on each of

those goods in interstate commerce, nor did I understand the legal meaning of "interstate commerce."

32. The AABH Application was apparently published for opposition on March 11, 2003, and issued on December 23, 2003 as Registration No. 1798069 (the "AABH Registration").

Basis for Proposed Amendments

33. I now understand that in the context of trademark rights under US federal trademark law, "in commerce" refers to interstate commerce regulable by Congress, and that "use" means applying the mark to specific "goods" or "services" (or otherwise using the mark to identify the origin or sponsorship of those specific goods and services) in the normal course of trade in those goods or services.

34. In particular, I now understand that "use in commerce" encompasses goods bearing the ABH and AABH Marks that have been distributed by or for ABH to retail stores such as Nordstrom and Sephora which are located in more than one state, goods bearing those marks which are manufactured in one state and are then distributed by or for ABH into another state, goods bearing those marks which are shipped by or for ABH from a distribution center in one state to customers in another state or foreign country, and goods bearing those marks which are sold by or for ABH in one state to customers who transport those goods to other states or countries for use in those other states or countries.

35. It is also my present understanding that a registration based on use in the United States can cover only goods and services for which the mark was actually being used in commerce (as defined above) as of the date of registration.

36. Based on my present understanding of "use in commerce," I hereby confirm that, at least as early as August 5, 2003 (the filing date of the Statement of Use in the AABH Application), the ABH and AABH Marks were actually being

used in commerce, on the product specimens filed in the ABH Application and in the AABH Application. Specifically, at least as early as September 9, 2002 (the filing date of the 2002 ABH Amendment), the ABH and AABH marks were being used in commerce on eyebrow highlighting pencils, eye liners, depilatory wax, candles, cosmetics brushes, and tweezers (the specimens of use filed in the ABH Application) and at least as early as August 5, 2003 (the filing date of the Statement of Use in the AABH Application) on exfoliating shower cream, candles, body milk, exfoliating face scrub, hand cream, loose powder, brow powder, eye shadow, body bar soap, mascara, cosmetics brushes, and tweezers (the specimens of use filed in the AABH Application).

37. Based on my present understanding of "use in commerce" as set forth above, and based on my present understanding of the common trade usage of these terms in connection with cosmetics and skincare products and services, I hereby also confirm that, at least as early as August 5, 2003, the ABH and AABH marks were actually being used in commerce on the following generic goods listed in the ABH and AABH Registrations: foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing products/bronzing liquid, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color products/eyebrow color pencils, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel; facial cleansers, facial cleansing bars, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye area creams, facial serums, facial exfoliators, body cream, body lotion/body lotions, body powder, body moisturizers, and hand creams; body cleansing creams, and bar soaps; fragranced creams and lotions; candles; eyebrow tweezers and eyebrow grooming scissors; and cosmetic brushes.

38. I do not profess to be an expert on what constitutes normal trade usages and practices in the field of fragrances and perfumes; however, as of as August 5, 2003, I then believed in good faith and today still believe that the ABH and AABH marks were and are being used in commerce on the following generic

goods listed in the ABH and AABH Registrations: potpourri; perfume, eau de parfum, eau de toilette, eau de cologne; room fragrances.

39. Based upon my present understanding of "use in commerce," on the registration dates of the ABH and AABH marks, to the best of my knowledge and belief, the marks had not been used in commerce on the following generic goods listed in the registrations: nail polish, nail base coat, and nail top coat; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents.

40. Since it now appears that the ABH and AABH Registrations were improperly extended, without any deceptive intent, to cover certain goods on which the ABH and AABH marks had not actually been "used in commerce" as of the date of registration, I, as President of ABH, have instructed our current trademark counsel to seek to amend the registrations to delete such goods. Specifically, we wish to amend the registrations to delete the following goods: nail polish, nail base coat, and nail top coat; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents from the ABH and AABH Registrations.

41. We are not currently promoting for nationwide sale, and presently have no firm plans to do so in the future, the following generic categories of goods listed in the ABH and AABH Registrations: potpourri; facial cleansing bars, facial cleansers, facial exfoliators, body powder; body cleansing products, namely, creams, and bar soaps; perfume, eau de parfum, eau de toilette, eau de cologne; room fragrances; and candles. Although I do not have any reason to believe that these particular types of goods were not validly covered by the original ABH and AABH Registrations, I have instructed counsel to not include those particular goods in any extension or renewal of the ABH and AABH Registrations.

42. It has been recently brought to my attention that inconsistent and/or erroneous dates of first use were inadvertently made of record for the ABH and

AABH Registrations. Based on my present understanding of "use" and "use in commerce", I confirm that the ABH and AABH marks were first used in the Beverly Hills salon at least as early as March 2000 on at least some of the listed goods in classes 3, 8 and 21 (for example, on eyebrow pencils, tweezers and cosmetic brushes) and at least as early as December 2001 for class 4 (candles); we have documentary evidence that those marks were first used in commerce on at least some of the listed goods shipped in the normal course of trade to national accounts such as Nordstrom at least as early as August 2000 for classes 3 and 8 (for example, eyebrow pencils and tweezers), at least as early as October 2000 for class 21 (cosmetic brushes), and at least as early as August 2003 for class 4 (candles).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

This Declaration is being executed in Beverly Hills, California on January 14, 2010.

____/Anastasia Soare/____
Anastasia Soare

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ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE)	Opposition No. 91,188,736
ANASTASIA SKIN CARE, INC.)	
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Opposers)	OPPOSERS' MOTION TO
)	AMEND TRADEMARK
v.)	REGISTRATIONS
)	(Rule 2.133(a))
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	

EXHIBIT PA-1

(Reg'n 2798069 Section 7 Input)

Section 7 Request Form

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2798069
LAW OFFICE ASSIGNED	LAW OFFICE 110
SERIAL NUMBER	75833290
MARK SECTION (current)	
MARK FILE NAME	http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=75833290
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	A ANASTASIA BEVERLY HILLS
GOODS AND/OR SERVICES SECTION (003)(current)	
INTERNATIONAL CLASS	003
IDENTIFICATION	
Potpourri; cosmetics, namely, foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing liquid, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color pencils, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel, nail polish, nail base coat, and nail top coat; skin care products, namely, facial cleansers, facial cleansing bars, facial toners, facial astringents, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye-area creams, facial masques, facial serums, facial exfoliators, body cream, body lotion, body powder, body moisturizers, body lotions, body toners, body astringents, and hand creams; body cleansing products, namely, creams, gels, and bar soaps; fragrance products, namely, perfume, eau de parfum, eau de toilette, eau de cologne, and fragranced creams, lotions, gels, bar body toners, and astringents; room fragrances	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 09/00/1999
FIRST USE IN COMMERCE DATE	At least as early as 09/00/1999
GOODS AND/OR SERVICES SECTION (003)(proposed)	
INTERNATIONAL CLASS	003
IDENTIFICATION	
cosmetics, namely, foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing liquid, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color pencils, eyebrow pencils, eyebrow powder,eyebrow pomade, eyebrow gel; skin care products, namely, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye-area creams, facial serums, body cream, body moisturizers, body lotions, and hand creams; fragrance products, namely,fragranced creams and lotions	
FILING BASIS	Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 03/00/2000

FIRST USE IN COMMERCE DATE At least as early as 08/00/2000

GOODS AND/OR SERVICES SECTION (004)(current)

INTERNATIONAL CLASS 004

IDENTIFICATION candles

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 09/00/1999

FIRST USE IN COMMERCE DATE At least as early as 09/00/1999

GOODS AND/OR SERVICES SECTION (004)(proposed)

INTERNATIONAL CLASS 004

IDENTIFICATION DELETE CLASS ENTIRELY

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 09/00/1999

FIRST USE IN COMMERCE DATE At least as early as 09/00/1999

GOODS AND/OR SERVICES SECTION (008)(current)

INTERNATIONAL CLASS 008

IDENTIFICATION eyebrow tweezers and eyebrow grooming scissors

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 09/00/1999

FIRST USE IN COMMERCE DATE At least as early as 09/00/1999

GOODS AND/OR SERVICES SECTION (008)(proposed)

INTERNATIONAL CLASS 008

IDENTIFICATION eyebrow tweezers and eyebrow grooming scissors

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 03/00/2000

FIRST USE IN COMMERCE DATE At least as early as 08/00/2000

GOODS AND/OR SERVICES SECTION (021)(current)

INTERNATIONAL CLASS 021

IDENTIFICATION cosmetic brushes

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 09/00/1999

FIRST USE IN COMMERCE DATE At least as early as 09/00/1999

GOODS AND/OR SERVICES SECTION (021)(proposed)

INTERNATIONAL CLASS 021

IDENTIFICATION cosmetic brushes

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 03/00/2000

FIRST USE IN COMMERCE DATE

At least as early as 10/00/2000

ADDITIONAL STATEMENTS SECTION

Originally submitted dates of first use and first use in commerce are not consistent with Owner's current understanding of those terms, error arose in a Statement of Use that was prepared and signed by Owner's prior counsel, and was made in good faith. Certain goods (nail polish, nail base coat, and nail top coat; body powder; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents) are being deleted from the Registration on which the mark was not being used in commerce, as that term is currently understood by Owner, as of the filing of the Statement of Use. Error arose in the Statement of Use and in the Declaration attached to the Statement of Use and was made in good faith by Owner or Owner's counsel. Other goods (potpourri; facial cleansing bars, facial cleansers, facial exfoliators; body cleansing products, namely, creams and bar soaps; perfume, eau de parfum, eau de toilette, eau de cologne; room fragrances; and candles) are being deleted on which the mark was being used in commerce as of the filing of the Statement of Use and for which no error is being alleged or acknowledged, but for which Owner currently has no plans for nationwide promotion. Mark is currently subject of a cancellation counterclaim in TTAB Opposition 91188736

MISCELLANEOUS STATEMENT

PAYMENT SECTION

TOTAL AMOUNT

100

TOTAL FEES DUE

100

SIGNATURE SECTION

SIGNATORY'S NAME

John M May

SIGNATORY'S POSITION

Attorney of record, Calif bar

SIGNATORY'S NAME

John M May

SIGNATORY'S POSITION

Attorney of record, Calif. bar

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**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL
BOARD**

ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE	)	Opposition No. 91,188,736
ANASTASIA SKIN CARE, INC.)	
)	
Opposers	)	OPPOSERS' MOTION TO
	)	AMEND TRADEMARK
v.	)	REGISTRATIONS
	)	(Rule 2.133(a))
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	

EXHIBIT PA-2

(Reg'n 2821892 Section 7 Input)

Section 7 Request Form

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2821892
LAW OFFICE ASSIGNED	LAW OFFICE 110
SERIAL NUMBER	75833810
MARK SECTION (current)	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	ANASTASIA BEVERLY HILLS
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
GOODS AND/OR SERVICES SECTION (003)(current)	
INTERNATIONAL CLASS	003
IDENTIFICATION	
potpourri; cosmetics, namely, foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing products, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color products, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel, nail polish, nail base coat, and nail top coat; skin care products, namely, facial cleansers, facial cleansing bars, facial toners, facial astringents, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye area creams, facial masques, facial serums, facial exfoliators, body cream, body lotion, body powder, body moisturizers, body lotions, body toners, body astringents, and hand creams; body cleansing products, namely, creams, gels, and bar soaps; fragrance products, namely, perfume, eau de parfum, eau de toilette, eau de cologne, and fragranced creams, lotions, gels, bar body toners, and astringents; room fragrances	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2000
FIRST USE IN COMMERCE DATE	At least as early as 09/00/2000
GOODS AND/OR SERVICES SECTION (003)(proposed)	
INTERNATIONAL CLASS	003
IDENTIFICATION	
cosmetics, namely, foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing liquid, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color pencils, eyebrow pencils, eyebrow powder,eyebrow pomade, eyebrow gel; skin care products, namely, facial	

moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye-area creams, facial serums, body cream, body moisturizers, body lotions, and hand creams; fragrance products, namely, fragranced creams and lotions

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2000
FIRST USE IN COMMERCE DATE	At least as early as 08/00/2000

GOODS AND/OR SERVICES SECTION (004)(current)

INTERNATIONAL CLASS	004
IDENTIFICATION	candles

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2000
FIRST USE IN COMMERCE DATE	At least as early as 09/00/2000

GOODS AND/OR SERVICES SECTION (004)(proposed)

INTERNATIONAL CLASS	004
IDENTIFICATION	DELETE CLASS ENTIRELY

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2000
FIRST USE IN COMMERCE DATE	At least as early as 09/00/2000

GOODS AND/OR SERVICES SECTION (008)(current)

INTERNATIONAL CLASS	008
IDENTIFICATION	eyebrow tweezers and eyebrow grooming scissors

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2000
FIRST USE IN COMMERCE DATE	At least as early as 08/00/2000

GOODS AND/OR SERVICES SECTION (008)(proposed)

INTERNATIONAL CLASS	008
IDENTIFICATION	eyebrow tweezers and eyebrow grooming scissors

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2000
FIRST USE IN COMMERCE DATE	At least as early as 09/00/2000

GOODS AND/OR SERVICES SECTION (021)(current)

INTERNATIONAL CLASS	021
IDENTIFICATION	cosmetic brushes

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 03/00/2000

FIRST USE IN COMMERCE DATE

At least as early as 08/00/2000

GOODS AND/OR SERVICES SECTION (021)(proposed)**INTERNATIONAL CLASS**

021

IDENTIFICATION

cosmetic brushes

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 03/00/2000

FIRST USE IN COMMERCE DATE

At least as early as 10/00/2000

ADDITIONAL STATEMENTS SECTION**MISCELLANEOUS STATEMENT**

Originally submitted dates of first use and first use in commerce were not separately set forth for each class and are not fully consistent with Owner's current understanding of those terms, error arose in Amendment to Allege Use that was prepared and signed by Owner's prior counsel based on information supplied by Owner, and was made in good faith. Certain goods (nail polish, nail base coat, and nail top coat; body powder; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents) are being deleted from the Registration on which the mark was not being used in commerce, as that term is currently understood by Owner, as of the filing of the third Amendment to Allege Use. Errors arose in a series of Amendments to Allege Use prepared and filed by Owner's Counsel, the first of which included a Declaration signed by Owner, and were made in good faith by Owner or Owner's counsel. The designation of certain goods (bronzing products, eyebrow color products) were narrowed by Amendment (bronzing liquid, eyebrow color pencils), but the narrower language was erroneously omitted from the third Amendment to Allege Use, and was made in good faith by Owner's prior counsel. Other goods (potpourri; facial cleansing bars, facial cleansers, facial exfoliators; body cleansing products, namely, creams, and bar soaps; perfume, eau de parfum, eau de toilette, eau de cologne; room fragrances; and candles) are being deleted on which the mark was being used in commerce prior to the mailing of the Notice of Publication and for which no error is being alleged or acknowledged, but for which Owner currently has no plans for nationwide promotion. Mark is currently subject of a cancellation counterclaim in TTAB Opposition 91188736.

PAYMENT SECTION**TOTAL AMOUNT**

100

TOTAL FEES DUE

100

SIGNATURE SECTION

SIGNATORY'S NAME

John M May

SIGNATORY'S POSITION

Attorney of record, Calif bar

SIGNATORY'S NAME

John M May

SIGNATORY'S POSITION

Attorney of record, Calif. bar

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